IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.1097 OF 2005

WITH

CIVIL APPLICATION NO.1341 OF 2005

M/s.Premier Products ..Appellant.

Vs.

Municipal Corporation for

Greater Mumbai ..Respondent.

....

Mr.V.B.Naik i/b Shruti Desai & Co. for the Appellant.

Ms.Geetanjali Joglekar for the BMC.

....

CORAM : DR.D.Y.CHANDRACHUD, J.

5th December, 2005.

P.C. :

An application was moved before the City Civil Court at Exh.1 for passing a decree in terms of a Municipal circular dated 8th August, 2005.

The Learned Trial Judge was, in my view, justified in taking the view that no decree could be passed at this stage since an enquiry was necessary on the issue as to whether the application for regularization of the mezzanine floor fell within the scope and purview of the conditions set out in the circular dated 8th August, 2005. However, on behalf of the Appellant, it has been submitted that the Appellant has filed a representation on 3rd October, 2005 (page 105 of the paperbook), and the Municipal Corporation may be directed to consider it. There can be no objection to a direction to the Municipal Corporation to consider the representation unless a final decision has already been taken thereon. In the circumstances, this Appeal is disposed of by directing that unless a final decision has already been taken on the representation of the Appellant dated 3rd October, 2005 in regard to the regularization of the mezzanine floor in accordance with the Municipal circular dated 8th August, 2005, a decision thereon in accordance with law shall be taken by the competent authority and an intimation shall be furnished to the Appellant. However, it is clarified that this Court has had made no

observations in regard to the lawfulness of the structure or on the merits of the plea for regularization. Unless a decision has already been taken by the Municipal authorities, the representation shall be disposed of within a period of two months from the date on which an authenticated copy of this order is forwarded to the competent authority. The Appeal is accordingly disposed of.

In view of the disposal of the Appeal from Order, the Civil Application is rendered infructuous and is accordingly disposed of.